REMARKS

Claims 1-9, 19, 20 and 30-35 are now pending in this application. By the present amendments, the previously presented claims have been amended to more particularly point out particularly preferred features of certain embodiments of the claimed invention. No new matter has been introduced by any of these amendments.

I. Rejections Under 35 U.S.C. § 112, Second Paragraph

The Examiner has rejected claims 1-9, 19, 20 and 30-35 under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. While not acceding to the Examiner's characterization of the original claim language, solely in an effort to expedite prosecution, Applicants have amended the claims as shown above. In view of these amendments, the outstanding rejection has been obviated and withdrawal thereof is respectfully requested.

More specifically, with respect to the "effective amount" in step (b), the claims have been amended to recite a "test amount" as the presently claimed method is intended for determining whether a particular candidate agent will alter the level of expression in the amount being tested.

With respect to the "sufficient period of time" in step (c), such has been changed to a "predetermined" period of time. As noted above, the presently claimed method is intended for determining whether a particular candidate agent will alter the level of expression of a particular protein. Accordingly, one skilled in the art would necessarily incubate the cells in the presence of the agent for a certain period of time to allow the agent to exert its affects, if any, on the level of

expression. Such a period of time would be "predetermined" by that skilled worker prior to conducting the claimed method.

With respect to the "control" in claim 1, the claim has been amended to recite the reagents contained in such a control.

With respect to the rejection of claim 4, Applicants respectfully traverse. As grounds for this rejection, the Examiner has alleged that the claim is "incomplete for omitting essential structural cooperative relationships of elements" because "there is no indication of what reagent . . . provides for the 'fluorescence, luminescence, radioactivity, absorbance' to be measured."

Applicants submit, however, that any reagent could provide the property (fluorescence, luminescence, radioactivity, absorbance) being measured. That is, it could be the protein itself, the candidate agent or the antibody which exhibits a measurable fluorescence, luminescence, radioactivity or absorbance for use in the claimed method, depending upon the particular functional groups and/or atoms present therein. There is no justification for requiring Applicants to limit claim 4 to only one of these components providing such a property and so withdrawal of this rejection is respectfully requested.

With respect to claims 19, 20, 30 and 31, the dependencies of these claims have been corrected.

With respect to claim 19, Applicants respectfully traverse. As grounds for this rejection, the Examiner has alleged that the claim is "ambiguous" because "it is unclear what role the enzyme plays in relation to the elements and method steps recited in claim 1 from which it depends."

Applicants submit, however, that there is no requirement in the claim that the enzyme "do" anything. Rather, claim 19 recites that the antibody that binds to the protein is coupled to an enzyme. Claim 19 is therefore directed to a preferred embodiment of the claimed method in which an antibody-enzyme couple is used to determine the level of binding of the candidate agent, rather than just an antibody alone. Thus, the claim does recite the necessary function of the enzyme, *viz.*, to be coupled to the antibody. Nothing else is required by the specification or the claim language, or the statute. Withdrawal of this rejection is respectfully requested.

For at least the reasons above, withdrawal of the outstanding rejection under 35 U.S.C. § 112, second paragraph, is respectfully requested.

II. Rejections for Double Patenting

The Examiner has rejected claims 1-9, 19, 20 and 30-35 under the judicially-created doctrine of obviousness-type double patenting over all U.S. Patent Application No. 10/635,010, now U.S. Patent No. 7,211,407, either alone or in combination with Zhang et al. While not acceding to the Examiner's characterization of the pending claims or the cited documents, solely in an effort to expedite prosecution, Applicants will submit the appropriate terminal disclaimer when allowable subject matter is indicated in this application.

III. Rejections Under 35 U.S.C. § 102

The Examiner has rejected claims 1-5, 19 and 20 under 35 U.S.C. § 102(b) as anticipated by by Woska in view of Isacke. While not acceding to the Examiner's characterization of the pending

claims or the cited documents, solely in an effort to expedite prosecution, Applicants have amended claim 1 to incorporate the limitations of claim 6. As none of the cited documents teach or suggest the method of amended claim 1, withdrawal of these rejections is respectfully requested.

IV. Rejections Under 35 U.S.C. § 103

The Examiner has rejected claims 6-9 and 30 under 35 U.S.C. § 103(a) as allegedly obvious over Woska in view of Isacke and Zhang and claims 31-35 as allegedly obvious over Woska in view of Isacke and Owman. While not acceding to the Examiner's characterization of the pending claims or the cited documents, solely in an effort to expedite prosecution, Applicants have amended claim 1 to recite that the protein of interest is a membrane ion channel. As none of the cited documents teach or suggest the method of amended claim 1, either alone or in combination, withdrawal of these rejections is respectfully requested.

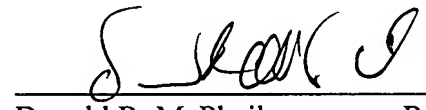
CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, Donald R. McPhail, at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future.

Respectfully submitted,



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